

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PENSION BENEFIT GUARANTY
CORPORATION,

ORDER

05-CV-5317 (DRH) (AKT)

Plaintiff,

-against-

BRENTWOOD YARN MILLS, INC.,
A New York Corporation, as Plan
Administrator for the Brentwood Yarn Mills, Inc.
Pension Plan

Defendant.

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HURLEY, Senior District Judge:

On June 17, 2008, this Court granted Plaintiff's motion for an entry of default judgment against Defendant in the above-captioned case, and referred the matter to Magistrate Judge A. Kathleen Tomlinson, pursuant to 28 U.S.C. § 636(b)(3), for a report and recommendation as to damages and attorney's fees. On January 6, 2009, Judge Tomlinson issued a Report and Recommendation that Plaintiff's motion (1) for a decree that the Plan be terminated; (2) to be appointed as statutory trustee of the Plan; (3) to establish January 5, 1990 as the termination date of the Plan; and (4) to require Defendant and any other person or entity having possession, custody, or control of any of the records, assets, property, or documents relating to the Plan to transfer, convey, and deliver all such records, assets, property and documents to Plaintiff be granted in its entirety. More than ten days have elapsed since service and no party has filed any objections.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, this Court adopts the January 6, 2009 Report and Recommendation of Judge Tomlinson as if set forth herein. Accordingly, Plaintiff's motion (1) for a decree that the Plan be terminated; (2) to be appointed as statutory trustee of the Plan; (3) to establish January 5, 1990 as the termination date of the Plan; and (4) to require Defendant and any other person or entity having possession, custody, or control of any of the records, assets, property, or documents relating to the Plan to transfer, convey, and deliver all such records, assets, property and documents to Plaintiff is hereby GRANTED in its entirety.

SO ORDERED.

Dated: Central Islip, N.Y.
April 16, 2009

/s/
Denis R. Hurley,
United States District Judge